

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON DIVISION

**IN RE: DIGITEK[®] PRODUCT LIABILITY
LITIGATION**

MDL NO. 1968

THIS DOCUMENT RELATES TO ALL CASES

DEFENDANTS' MOTION TO STRIKE PLAINTIFFS' EXHIBIT 620

Defendants respectfully move this Court to enter an Order striking Plaintiffs' Exhibit 620, the declaration of Dr. David M. Bliesner, Ph.D., from the record. Dr. Bliesner's declaration, filed on August 24, 2011—well after the close of discovery and three weeks after Defendants' dispositive and *Daubert* motions were filed—is barred both as an improper supplement to his expert report under Fed. R. Civ. P. 26(e)(2) and as a “sham affidavit.” In support of this Motion, Defendants expressly incorporate the arguments set forth on pages 7 to 10 of Defendants' Reply Memorandum in Support of Defendants' Motion for Summary Judgment (Doc. 570).

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Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on September 8, 2011, a copy of the foregoing **DEFENDANTS' MOTION TO STRIKE PLAINTIFFS' EXHIBIT 620** was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

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